

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DONTRELL JOHNSON,

Plaintiff,

v.

Case No. 08-C-297

WILLIAM J. POLLARD, PETE ERICKSON,
JEAN LUTSY, WILLIAM SWIEKATOWSKI,
MICHAEL BAENEN, SARAH COOPER,
CO II VANLOO, JEANANNE ZWIERS,
CO II STEUDEL, CO II ZUGE, and CO II RHOADES,

Defendants.

ORDER

On December 18, 2008, the *pro se* plaintiff filed a motion to compel discovery in which he seeks an order compelling the defendants to produce his first set of interrogatories, first request for production of documents, and first set of admissions. The plaintiff asserts that he requested this discovery from the defendants on August 24, 2008, but has not yet received any response.

Although Federal Rule of Civil Procedure 37 permits the court to compel discovery, the party seeking such discovery must complete several steps before court intervention is appropriate. The party seeking discovery must first direct his request to the opposing party. If the opposing party fails to provide the materials, the party must then personally consult with the opposing party and attempt to resolve their differences. Civ. L.R. 37.1 (E.D. Wis.). If the party is still unable to obtain discovery, he may file a motion to compel discovery with the court pursuant to Rule

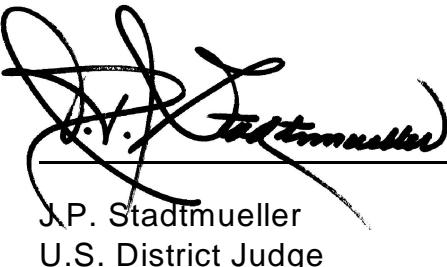
37(a). Such motion must be accompanied by a written statement that the "movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Fed. R. Civ. P. 37(a)(1). (Since the plaintiff is a *pro se* prisoner, a letter to the defendants would satisfy the "personal consultation" requirement.)

In this case, the plaintiff made an initial request for discovery and received no response. The plaintiff has not indicated that he made any such prior demand of the defendants or engaged in the required personal consultation and, therefore, court action would be premature. Accordingly,

IT IS ORDERED that the plaintiff's motion to compel discovery (Docket #42) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 29th day of January, 2009.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge